

The Goa Land Conservation and Management Bill 2011

An Act to provide for conservation of agricultural land, prevention of sale of agricultural land to non agriculturists, imposing standards of cultivation of agricultural land, contract farming and establishment of co-operative farms and farming estates, etc.

1. Short title, extent and commencement:

- (1) This Act may be called The Goa Land Conservation and Management Act 2011.
- (2) It extends to the whole of the State of Goa.
- (3) It shall come into force on such date as the State Government may prescribe and different dates may be prescribed for different provisions.

2. Definitions:

- (1) “**Contract farming**” means cultivation of land by a Contractor.
- (2) “**Contract farming Agreement**” means an agreement executed between a land holder and a contractor for the cultivation of the land in the prescribed manner.
- (3) “**Contractor**” means a person who cultivates land under a Contract Farming Agreement and includes a Co-operative Society or a Company registered under the Companies Act, a Society registered under the Societies Registration Act 1864, a trust or association of individuals or any other entity duly recognized and registered with the Mamlatdar of the Taluka where the land is situated.
- (4) “**Land**” means agricultural land, that is to say, land which is used or capable of being used for agricultural purposes or purposes subservient thereto and includes horticultural land, forest land, garden land, pasture land, plantation land but does not include house-sites or land used exclusively for non agricultural purposes.
- (5) “**Land holder**” means owner, occupant, tenant or deemed purchaser or any other person lawfully in possession of land.
- (6) “**Uncultivated land**” means land which is left fallow and uncultivated or cultivated in violation of rules relating to standards of cultivation prescribed by the Government.
- (7) “**Water bodies**” shall mean and include all lakes, reservoirs, springs, streams, monsoon water drains, rivers, waterways and lands appurtenant thereto to the extent of 15 meters.

Chapter I

3. Conservation of land

Notwithstanding anything contained in any other law for the time being in force no authority of the State Government, shall make, except with the prior approval of the Legislative Assembly of Goa any order directing or permitting

- (i) any land to be used for non agricultural purposes
- (ii) any water body to be encroached, filled with mud, debris or any other material, diverted, closed, constructed upon or in any way damaged or destroyed.

Chapter II

Prevention of Sale of Agricultural land to Non Agriculturists

4. Acquisition of land by certain persons prohibited

(1) On and from the commencement of The Goa Land Conservation and Management Act 2011, no person who or a family or a joint family which has an assured annual income of not less than rupees (12 lakhs) from sources other than agricultural lands shall be entitled to acquire any land whether as land owner, landlord, tenant or mortgagee with possession or otherwise or partly in one capacity and party in another.

(2) For purposes of sub section (1)-

(i) the aggregate income of all the members of a family or a joint family from sources other than agricultural land shall be deemed to be income of the family or joint family, as the case may be, from such sources.

(ii) a person or a family or a joint family shall be deemed to have an assured annual income of not less than rupees (12 lakhs) from sources other than agricultural land on any day if such person or family or joint family had an average annual income of not less than rupees (12 lakhs) from such sources during a period of five consecutive years preceding such day.

(3) Every acquisition of land otherwise than by way of inheritance or bequest in contravention of this section shall be null and void.

(4) Where a person acquires land he shall within ninety days from the date of acquisition, furnish to the Mamlatdar having jurisdiction over the Taluka where the land acquired or the greater part of it is situated a declaration containing the following particulars, namely-

(i) particulars of all land

(ii) the average annual income of himself or the family

(iii) such other particulars as may be prescribed

(5) The Mamlatdar shall, on receipt of declaration under sub section (4) and after such enquiry as may be prescribed send a statement containing the prescribed particulars relating to such land to the Collector who shall, if such acquisition is in contravention of this section by notification, declare that with effect from such date as may be specified in the notification, such land shall stand transferred to and vest in the State Government without further assurance free from all encumbrances. From the date specified in such notification the Collector may take possession of such land in such manner as may be prescribed.

(6) For the land vesting in the State Government under sub-section (5), an amount equivalent to market price on the date of vesting of such land in the State Government shall be paid.

5. Prohibition of holding agricultural land by certain persons

(1) With effect on and from the date of commencement of this Act, except as otherwise provided in this Act,-

(a) no person other than a person cultivating land personally shall be entitled to hold land; and

(b) it shall not be lawful for,

(i) an educational, religious or charitable institution or society or trust, capable of holding property; except where the income from the land is appropriated solely for the institution or the society or the trust as the case may be.

(ii) a company; except where the primary purpose of such company is Agriculture.

(iii) an association or other body of individuals not being a joint family, whether incorporated or not; except where such association or body is engaged in agriculture.

(iv) a co-operative society other than a co-operative farm, to hold any land, provided any person holding land on the date of commencement of this Act shall be exempt from this clause.

(2) Every such institution, society, trust, company, association, body or co-operative society-

(a) which holds land on the date of commencement of this Act and which is disentitled to hold lands under sub section(1), shall, within ninety days from

the said date furnish to the Mamlatdar within those jurisdiction the greater part of such land is situated a declaration containing the particulars of such land and such other particulars as may prescribed; and

(b) which acquires such land after the said date shall also furnish a similar declaration within the prescribed period.

(3) The Mamlatdar shall, on receipt of the declaration under sub section (2) and after such enquiry as may be prescribed, send a statement containing the prescribed particulars relating to such land to the Collector who shall, by notification, declare that such land shall vest in the State Government free from all encumbrances and take possession thereof in the prescribed manner.

(4) In respect of the land vesting in the State Government under this section an amount equivalent to the market price as on the day of vesting such land in the State Government shall be paid.

6. Penalty for failure to furnish declaration

(1) Where a person fails to furnish the declaration under section 4 or section 5 or furnishes a declaration knowing or having reason to believe it to be false, the Mamlatdar shall issue a notice in the prescribed form to such person to show cause within fifteen days from the date of service thereof why the penalty specified in the notice, which may extend to five thousand rupees, may not be imposed upon such person.

(2) If the Mamlatdar on considering the reply, if any, is satisfied that the person had failed to furnish the declaration without reasonable cause or had filed it, knowing or having reason to believe it to be false, he may, by order, impose the penalty and also require such person to furnish within a period of one month from the date of the order a true and correct declaration complete in all particulars.

(3) If the person fails to comply with such order, his right title and interest in the land concerned shall, as penalty, be forfeited to and vest in the State Government.

7. Transfer to non-agriculturists barred

(1) (a) No person shall sell (including sales in execution of a decree of a civil court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue), gift or exchange or lease any land or interest therein, to any person who is not an agriculturist or an agricultural labourer or is disentitled to acquire or hold any land.

(b) No mortgage of any land or interest therein, in which the possession of the mortgaged property is delivered to the mortgagee, shall be lawful in favour of a person-

(i) who is not an agriculturist, or;

(ii) who is not an agricultural labourer; or

(iii) who is disentitled under this Act to acquire or hold any land

Provided that the Collector having jurisdiction over the area or any officer not below the rank of an Collector authorized by the State Government in this behalf in respect of any area may grant permission for such sale, gift or exchange to enable a person other than a person disentitled to acquire or hold land who bona fide intends taking up agriculture to acquire land on such conditions as may be prescribed in addition to the following conditions, namely:-

(i) that the transferee resides within a radius of 10 kms from the land.

(ii) that the transferee has a scheme to cultivate the land duly approved by the Zonal Agricultural Officer.

(iii) that the transferee takes up agriculture within one year from the date of acquisition of land, and

(iv) that if the transferee gives up agriculture within five years, the land shall vest in the State Government subject to payment to him of an amount equal to eight times the net annual income of the land or where the land has been purchased, the price paid for the land, if such price is less than eight times the net annual income of the land.

8. Declaration to be made before the registering authority in certain cases-

(1) No document relating to any transfer of land either by sale, gift, exchange, lease, (mortgage with possession) surrender, agreement, settlement, or otherwise, shall be registered unless a declaration in writing is made in duplicate in such form as may be prescribed and filed by the transferee before the registering authority under the Indian Registration Act, 1908 (Central Act XVI of 1908), as to the total extent of land held by him as also his assured annual income.

(2) The registering authority referred to in sub section (1) shall forward within

15 days one copy of the declaration referred to in sub section (1) to the Collector, within whose jurisdiction the land which is the subject matter of the transfer of the major part thereof is situated.

(3) On receipt of the copy of the declaration under sub section (2), the Collector may obtain such information as may be necessary and take such action as he deems fit in accordance with the provisions of this Act and in accordance with such rules as may be made in this behalf.

9. Reporting of illegal transactions

Every village officer and every officer in the Revenue, Registration and Land Records Departments shall report to the Collector every transaction in respect of any land in contravention of any of the provisions of this Act which comes to the notice of such officer.

10. Inquiry regarding illegal transactions

The Collector shall, after a summary inquiry, determine whether the transaction reported to him under section 9 or coming to his notice in any other manner is in contravention of the provisions of this Act, and make a declaration accordingly. Any transaction so declared to be in contravention of any of the provisions of this Act shall be null and void. The land in respect of which such transaction has taken place shall, as penalty, be forfeited to and vest in the State Government free from all encumbrances and no amount shall be payable thereof.

Chapter III

Prevention of Fragmentation and Consolidation of agriculture land

11. Minimum holding of agricultural land shall not be less than economic holding as defined under Rules made under this Act.

12. No agricultural land shall be divided or sub divided so that any portion of it is less than an “economic holding” as defined under Rules framed under this Act.

13. The Government shall as far as possible consolidate all agricultural holdings so as to conform to the definition of an economic holding wherever possible in such manner as may be prescribed.

Chapter IV

Farm Accesses, Sources of water, Water Channels, Protective Bunds, Water bodies, etc.

14. Notwithstanding anything contained in other law or any order or judgment and direction of any Court no person shall prevent access to any landholder of any landlocked land or beneficiary of any sluice gate, boundary mark, public water channel or natural water source or protective bund or a water body at any time.

15. (1) It shall be the duty and responsibility of the landholder benefiting from any farm road, boundary mark or access water channel, natural water source or sluice gate or a protective bund or a ridge or border of any tank, rivers or water course or other source of irrigation to maintain and keep in good repair any such farm road, access water channel, natural water source, sluice gate or protection bund, ridge or border as the case may be.

15. (2) If it appears to the Mamlatdar suo moto, or on an application made by any aggrieved party that any road, access way, water channel, natural water source, sluice gate, protective bund, ridge or border of any tank, river, water course and or any source of irrigation has been or is being blocked, obstructed, neglected, damaged or needs any repair, reconstruction or maintenance, he may direct that any such blockade or obstruction be removed forthwith and or any repairs, reconstruction or maintenance be carried out forthwith.

15. (3) In the event of failure to abide by the directions issued by the Mamlatdar under sub section (2) above the Mamlatdar may cause the blockade or obstruction to be removed or direct the repairs, reconstruction or maintenance to be carried out at the cost of any complainant or the Government and recover the same from the concerned landholders as arrears of land revenue.

16. Landholders right to operate sluice gates and right to fisheries:

(i) Where, for the purpose of regulating supply of water or for irrigation of any land, there is any sluice gate or other such contrivance, the right to operate and the duty and responsibility of maintaining such sluice gate or other contrivance, as also the right to the fisheries, if any, in the vicinity thereof, shall be that of the landholder, notwithstanding any other law, custom, usage, agreement or contract, decree or order of any court to the contrary.

(ii) The rights conferred on a landholder under sub section (i) shall, where there are more landholders than one who derive benefit from the same sluice gate or other such contrivance, be exercised by all the landholders jointly in accordance with such principles as may be prescribed.

(iii) Nothing in sub section (i) and (ii) above shall be deemed to confer on the landholder any right to any fisheries or other property in the ownership or possession of Government or to authorize him to block or stagnate water for the purpose of catching or breeding fish, in any land used for agriculture.

17. Construction of water course through land belonging to other person-

(1) If any landholder (hereinafter called the applicant) desires to construct, or repair or to maintain as the case may be, water course to take water for purpose of agriculture from a source of water to which he is entitled but such water course is to be constructed or runs through any land which belongs to, or is in possession of, another landholder (herein called the neighbouring land holder) and if no private agreement is arrived at for such construction or repairs or maintenance, as the case may be, between the applicant and the neighbouring holder, the person desiring to construct or repair or maintain the water course may make an application to the Mamlatdar.

(2) On receipt of the application, if the Mamlatdar, after making an inquiry and after giving to the neighbouring holder and all other persons interested in such land an opportunity of stating any objection to the application, is satisfied that for ensuring the full and efficient use for agriculture of the land belonging to the applicant it is necessary to construct (or to repair or to maintain, as the case may be) the water course, he may, by order in writing direct the neighbouring owner to permit the applicant to construct the water course in such manner as may be technically feasible.

(i) the applicant shall pay to the neighbouring landholder such compensation for any damage caused to such land by reason of the construction of the water course or such annual rent, as the Mamlatdar may decide to be reasonable;

(ii) the applicant shall maintain the water course in a fit state of repairs;

(iii) the applicant shall within the prescribed period execute an agreement in the prescribed form in favour of the neighbouring holder; and

(iv) such other conditions as the Mamlatdar may think fit to impose.

(3) An order made under sub section (2) shall direct how the amount of compensation shall be apportioned among the neighbouring landholders and all persons interested in the land.

- (4) An order made under sub section (2) shall, after the applicant executes an agreement as required under clause (iii) of sub section (2) be a complete authority to him or to any agent or other person employed by him for the purpose to enter upon the land specified in the order with assistants or workmen and to do all such works as may be necessary for the construction of the water course and for renewing or repairing the same.
- (5) The provisions of the foregoing sub sections shall apply mutatis mutandis to the case of a person whose land does not have adequate drainage facilities and who desires to construct a drainage channel through any land which belongs to, or is in the possession of, another person.

18. Procedure for regulating the discharge of joint responsibility of landholder:

(1) Where under any of the provisions of this Act, the duty and responsibility of any work of conservancy, maintenance or repair of any bund, embankment, ridge, sluice gate or any other work is that of more than one landholder, Government may, by rules regulate the manner in which such duty or responsibility shall be discharged and also the determination and recovery of the share of the landholder of the cost of a work to which he is under an obligation to contribute.

(2) Without prejudice to the generality of the foregoing, such rules may provide for-

(i) the constitution, functions and organization of landholders association for any local area;

(ii) the management and regulation of sources of income of the associations such as income from trees on bunds, operation of sluice gates, fisheries and such other sources of income as may be prescribed;

(iii) the termination of the beneficiaries of any work, the apportionment and recovery of the cost of such work from among them;

(iv) the manner in which works shall be executed, and

(v) the conditions and mode of payment of Government's contribution.

(3) Any sum which is payable by a landholder or any other person towards the cost of any such work as is referred to in sub section (1) shall be recoverable as arrears of land revenue.

Chapter V

Standards of Cultivation

19. The Government shall from time to time prescribe standards of cultivation of all lands.

20. Cultivation of uncultivated lands-

Where any landholder leaves his land uncultivated or cultivates it below the prescribed cultivation standards for a period not less than two consecutive years without sufficient cause, or the cultivation of any land has seriously suffered for any other cause whatsoever, or that any land capable of being used, if reclaimed or otherwise, howsoever, has not been reclaimed or otherwise improved and cultivated, the Mamlatdar shall call upon such land holder to cultivate the land or reclaim and cultivate as the case may be such land within one year from the date of service of notice. The Mamlatdar shall be entitled to take over management of such land in the event the landholder fails to comply with the notice. Such land may thereupon be entrusted to a contractor willing to cultivate it personally subject to such terms and conditions as may be prescribed.

Explanation: A land which can be cultivated both during “Serd” (Kharif) and Varugan (Rabi) season in a year, is not cultivated during any one of the seasons during any year shall for any purposes of this section be deemed to have remained uncultivated for that year.

Chapter VI

Contract farming

21. A landholder incapable of cultivating land may request the Mamlatdar to take over management of his land and to give such land on contract to a contractor.

22. A Mamlatdar of the area wherein such land is situated shall have powers to take over possession and management of any uncultivated land and hand it over to a contractor willing to cultivate it on payment of such rent and for such minimum period and subject to such conditions as may be prescribed.

23. Every contract under this Chapter shall be executed by the Mamlatdar on behalf of the land holder or other person entitled to be in possession of the land, and the contractor shall be liable to pay the rent specified in the agreement to the person on whose behalf the agreement was executed at the time and in the manner provided for in the farming contract.

24. The land holder or other person on whose behalf the land is given on contract by the Mamlatdar, shall in respect of the services rendered by the State Government under this Chapter, be liable to pay to the State Government such sum as may be prescribed and the said sum shall be recoverable as arrears of land revenue.

25. Delivery of possession after the period of agreement

After the expiry of the period of the agreement granted under this Chapter, or upon breach of any condition of the Contract Farming Agreement the Mamlatdar shall take over possession of the land from the contractor and deliver possession thereof to the person entitled to the possession or to any other contractor with the consent of the landholder.

Chapter VII

Contract farming Agreement

26. A Contract Farming Agreement shall be in such form and shall contain such provisions as prescribed and which is registered with the Mamlatdar of the Taluka where the land is situated.

27. Notwithstanding the provisions of any other law applicable to Contract Farming lands the agreement executed hereunder shall not create any ownership or any other right in favour of the contractor.

28. Any dispute arising from or touching the terms and conditions set out in the contract farming agreement shall be referred to the Mamlatdar who shall after hearing the parties concerned decide the dispute within a period of 30 days.

29. Any party aggrieved by the decision of the Mamlatdar shall have a right to appeal within 15 days from the date of the order passed by the Mamlatdar to the Collector who shall decide the appeal within a period of 30 days from the date of filing the appeal.

The decision of the Collector shall be final.

30. The decision of the Mamlatdar and Collector shall be deemed to be decree of the Civil Court and may be executed in the same manner as a decree.

31. The provision of the Goa Agriculture Product Market Act shall not apply to the produce obtained from a contract farm.

32. Cancellation of the contract

Where a contractor to whom a contract has been granted under the provisions of the Act, violates the terms of the contract or provisions of this Act and the Rules framed there under, the Mamlatdar may cancel the contract and grant a fresh contract to any other person on such terms and conditions as he thinks fit and the person whose contract is cancelled under this section shall forfeit all rights under his contract and shall also be liable to pay such sum by way of damages as may be determined by the Mamlatdar in each case. The sum so determined as damages shall be recoverable as arrears of land revenue.

Chapter VIII

Co-operative Farms

33. Formation of a Co-operative Farm

Any ten or more land holders of a village or two or more contiguous villages holding between them, rights in and possession over fifty acres or more in such village or contiguous villages and desiring to start a Co-operative Farm comprising the land so held and possessed by them may apply in writing in the prescribed form to the Registrar of Co-operative Societies (hereinafter referred to as the Registrar) for the registration thereof.

Explanation- More than one Co-operative Farm may be registered in any village under this Chapter.

34. Application for registration

An application for the registration of a Co-operative Farm shall be accompanied by extracts from the records of rights or other records showing the total area with the survey numbers of all the fields held by

each of the applicants in the village or contiguous villages and shall contain such other particulars as may be prescribed.

35. Registration of Co-operative Farm

(1)After making such enquiry as may be prescribed, the Registrar shall, unless he is satisfied that it is not in the best interests of all concerned to do so, register the Co-operative Farm under the Goa Co-operative Societies Act, 2009, and grant a certificate of registration and forward a copy of Certificate of Registration to the Mamlatdar of the Taluka.

36. Members land transferred to the farm

(1)When a Co-operative Farm has been registered as provided in section 35, the possession of all lands in the village or contiguous village held by members of the Co-operative Society in respect of which the Co-operative Farm is registered shall, for so long as the registration of the Co-operative Farm is not cancelled, stand transferred to the Co-operative Farm, which shall thereupon hold such lands and may use it for agricultural purposes.

(2)If any person is admitted as a member of a Co-operative Farm after its registration, the possession of the lands held by and in the possession of such members in respect of which he becomes a member, shall stand transferred to the Co-operative Farm.

(3)No member of a Co-operative Farm shall withdraw his membership unless he satisfies such condition as may be prescribed.

(4)On the withdrawal of membership of a Co-operative Farm by any person the possession of the lands in respect of which he had become a member shall, subject to such restrictions and conditions as may be prescribed, be transferred by the Co-operative Farm to such person.

37. Consequences of registration

When a certificate of registration in respect of any Co-operative Farm has been granted as provided in section 35, the provisions of the Goa Co-operative Societies Act, 2009, and the rules made there under shall, so far as they are not inconsistent with the provisions of this Act or of the rules made there under, be applicable thereto.

38. By-laws of the Farm

Every application under section 34 shall be accompanied by a copy of the proposed bye-laws of the Co-operative Farm and such bye-laws shall be

deemed to be the bye-laws required to be filed under the provisions of the Goa Co-operative Societies Act, 2007.

39. Amendment of the bye-laws by the Registrar

The Registrar may, at any time on an application made by the majority of the members of a Co-operative Farm, or on his own motion after giving notice to the Farm in such manner as may be prescribed, and after giving an opportunity to the Co-operative Farm to be heard, amend the bye-laws.

40. Land contributed to the Co-operative Farm to continue to vest in the land-holder thereof

Nothing in this Chapter shall be deemed to cause the right of ownership or Tenancy or deemed ownership of land holder in the land contributed by or on his behalf to a Co-operative Farm to cease to vest in him.

41. Rights, privileges, etc, of members

Every member of a Co-operative Farm shall be entitled to such rights and privileges, be subject to such obligations and liabilities, and be bound to discharge such duties as may be prescribed.

42. Contribution by a member

Subject to such exceptions as may be prescribed, every member shall be bound to contribute to the Co-operative Farm to the extent and in the manner prescribed-

- (i) funds,
- (ii) personal labour,
- (iii) agricultural implements, agricultural stock and such other articles as may be prescribed.

43. Liability of the Farm to land revenue and other dues

A Co-operative Farm shall, as from the date on which it is constituted, or the date in which a new member is admitted, be liable for the payment of all the land revenue, cesses, water rate, betterment contribution and local rates, payable by the land owner in respect of the land the possession of which is transferred to it under section 36.

44. Admission of new members

Any person, who is a resident of the village or contiguous villages in which a Co-operative farm is situated may be admitted as a member thereof upon such terms and conditions as may be prescribed.

45. Heirs deemed to be members of the Farm

When a member whose land is held by a Co-operative Farm dies, his heirs shall be deemed to have become members of the Co-operative Farms.

46. Concessions and facilities for the Co-operative Farm

- (1) A Co-operative Farm shall be entitled to such concessions and facilities as may be prescribed.
- (2) Without prejudice to the generality of the foregoing provision, the prescribed concessions and facilities may include-
 - (i) reduction of land revenue,
 - (ii) reduction of or exemption from agricultural income tax,
 - (iii) free technical advice from experts employed by the Government
 - (iv) financial aid and grant of subsidies and loans with or without interest, and
 - (v) priority in irrigations from State irrigation works.
- (3) For the purpose of this section, Co-operative Farm shall be deemed to include a co-operative society registered before the appointed day under the law relating to registration of co-operative societies, as a co-operative farming society.

Chapter IX

Farming Estates

47. Formation of a Farming Estate

Any five or more persons of a village or two or more contiguous villages holding between them, either as land owners or tenants, rights in and possession over fifty acres or more in such village or contiguous villages and desiring to start a Farming Estate comprising the land so held and possessed by them may apply in writing in the prescribed form to the Mamlatdar for the registration thereof and provisions of Chapter VIII shall apply mutatis mutandis to a Farming Estate.

Explanation- More than one Farming Estate may be registered in any village under this Chapter.

48. Penalties

(1) Whoever contravenes any of the provisions of this Act or of any rule made there under shall, on conviction by a first class judicial magistrate, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

(2) Notwithstanding anything Central Act contained in the Code of Criminal 2 of 1974 Procedure, 1973 every offence under this Act shall be cognizable and such offence may, with the permission of the Court, be compounded.

49. Power to make rules

(1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every Rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly of Goa.

50. Appeal

Any person aggrieved by any order or direction passed by the Authority under this Act may file an appeal to the Collector within 30 days. Any order passed in appeal will be final.